

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA  
SOUTHWESTERN DIVISION**

Anthony James Moore,	)	
	)	
Plaintiff,	)	<b>ORDER ADOPTING</b>
	)	<b>REPORT AND RECOMMENDATION</b>
vs.	)	
	)	
John Hoeven, Governor of North Dakota,	)	
Leann K. Bertsch, Director of Department	)	
of Corrections and Rehabilitation,	)	
Timothy Schuetzle, Warden, North Dakota	)	Case No. 1:08-cv-028
State Penitentiary, Robert Coad, Deputy	)	
Warden, North Dakota State Penitentiary,	)	
Shaun Fode, Patrick Branson,	)	
	)	
Defendants.	)	

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On February 27, 2008, the plaintiff, Anthony James Moore, filed a civil rights complaint under 42 U.S.C. § 1983, along with an application to proceed *in forma pauperis*, a motion for appointment of counsel, a motion for change of venue, and a motion for recusal. See Docket Nos. 1 and 2. On March 7, 2008, the Court denied Moore's motion for appointment of counsel. See Docket No. 8. Before the Court was able to complete an initial screening and rule on Moore's application to proceed *in forma pauperis*, Moore filed a motion for summary judgment on March 25, 2008. See Docket No. 10. On April 1, 2008, the Court denied Moore's motion to change venue and motion for recusal. See Docket No. 12.

Magistrate Judge Charles S. Miller, Jr. conducted an initial review of Moore's complaint pursuant to 28 U.S.C. § 1915A. On April 21, 2008, Magistrate Judge Miller submitted a Report and Recommendation in which he recommended that Moore's application to proceed *in forma pauperis* be denied, that Moore's complaint be dismissed for failure to state a claim, and that the dismissal

of Moore's complaint be without prejudice except for claim seven (interference with legal mail), which should be dismissed with prejudice. See Docket No. 13. Moore was given ten (10) days to file an objection to the Report and Recommendation.

Moore filed an objection to the Report and Recommendation on April 25, 2008. See Docket No. 15. Moore objects to the Report and Recommendation in its entirety and contends that each of his claims should go forward. Moore does not provide the Court with a factual or legal basis for why the Court should not adopt the Report and Recommendation.

The Court has carefully reviewed the Report and Recommendation, relevant case law, and the entire record, and finds the Report and Recommendation to be persuasive. The Court **ADOPTS** the Report and Recommendation (Docket No. 13) in its entirety. Accordingly, Moore's Application to Proceed *in forma pauperis* is **DENIED** and Moore's complaint is **DISMISSED** for failure to state a claim. The dismissal of Moore's complaint shall be without prejudice except for claim seven (interference with legal mail), which shall be dismissed with prejudice.

**IT IS SO ORDERED.**

Dated this 28th day of April, 2008.

/s/ Daniel L. Hovland

Daniel L. Hovland, Chief Judge  
United States District Court